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APPLICATION NO.	FILING DATE	FIRST NAMED INVENTOR	ATTORNEY DOCKET NO.	CONFIRMATION NO.
09/881,599	06/14/2001	Gerrit H. Soepenber	NL 000395	6414

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P.O. BOX 3001  
BRIARCLIFF MANOR, NY 10510

EXAMINER

LEROUX, ETIENNE PIERRE

ART UNIT PAPER NUMBER

2161

DATE MAILED: 04/06/2005

Please find below and/or attached an Office communication concerning this application or proceeding.

**Office Action Summary**

Application No.

09/881,599

Applicant(s)

SOEPENBERG ET AL.

Examiner

Etienne P LeRoux

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-- The MAILING DATE of this communication appears on the cover sheet with the correspondence address --

**Period for Reply**

A SHORTENED STATUTORY PERIOD FOR REPLY IS SET TO EXPIRE 3 MONTH(S) FROM THE MAILING DATE OF THIS COMMUNICATION.

- Extensions of time may be available under the provisions of 37 CFR 1.136(a). In no event, however, may a reply be timely filed after SIX (6) MONTHS from the mailing date of this communication.
- If the period for reply specified above is less than thirty (30) days, a reply within the statutory minimum of thirty (30) days will be considered timely.
- If NO period for reply is specified above, the maximum statutory period will apply and will expire SIX (6) MONTHS from the mailing date of this communication.
- Failure to reply within the set or extended period for reply will, by statute, cause the application to become ABANDONED (35 U.S.C. § 133).
- Any reply received by the Office later than three months after the mailing date of this communication, even if timely filed, may reduce any earned patent term adjustment. See 37 CFR 1.704(b).

**Status**

- 1) ☒ Responsive to communication(s) filed on 20 December 2004.
- 2a) ☒ This action is **FINAL**. 2b) ☐ This action is non-final.
- 3) ☐ Since this application is in condition for allowance except for formal matters, prosecution as to the merits is closed in accordance with the practice under *Ex parte Quayle*, 1935 C.D. 11, 453 O.G. 213.

**Disposition of Claims**

- 4) ☒ Claim(s) 1-3, 6-10, 12-16 and 18-23 is/are pending in the application.
- 4a) Of the above claim(s) \_\_\_\_\_ is/are withdrawn from consideration.
- 5) ☐ Claim(s) \_\_\_\_\_ is/are allowed.
- 6) ☒ Claim(s) 1-3, 6-10, 12-16 and 18-23 is/are rejected.
- 7) ☐ Claim(s) \_\_\_\_\_ is/are objected to.
- 8) ☐ Claim(s) \_\_\_\_\_ are subject to restriction and/or election requirement.

**Application Papers**

- 9) ☐ The specification is objected to by the Examiner.
- 10) ☒ The drawing(s) filed on 14 June 2001 is/are: a) ☒ accepted or b) ☐ objected to by the Examiner.  
Applicant may not request that any objection to the drawing(s) be held in abeyance. See 37 CFR 1.85(a).
- 11) ☐ The proposed drawing correction filed on \_\_\_\_\_ is: a) ☐ approved b) ☐ disapproved by the Examiner.  
If approved, corrected drawings are required in reply to this Office action.
- 12) ☐ The oath or declaration is objected to by the Examiner.

**Priority under 35 U.S.C. §§ 119 and 120**

- 13) ☒ Acknowledgment is made of a claim for foreign priority under 35 U.S.C. § 119(a)-(d) or (f).  
a) ☒ All b) ☐ Some \* c) ☐ None of:  
1. ☒ Certified copies of the priority documents have been received.  
2. ☐ Certified copies of the priority documents have been received in Application No. \_\_\_\_\_.  
3. ☐ Copies of the certified copies of the priority documents have been received in this National Stage application from the International Bureau (PCT Rule 17.2(a)).  
\* See the attached detailed Office action for a list of the certified copies not received.
- 14) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. § 119(e) (to a provisional application).  
a) ☐ The translation of the foreign language provisional application has been received.
- 15) ☐ Acknowledgment is made of a claim for domestic priority under 35 U.S.C. §§ 120 and/or 121.

**Attachment(s)**

- 1) ☐ Notice of References Cited (PTO-892) 4) ☐ Interview Summary (PTO-413) Paper No(s) \_\_\_\_\_
- 2) ☐ Notice of Draftsperson's Patent Drawing Review (PTO-948) 5) ☐ Notice of Informal Patent Application (PTO-152)
- 3) ☐ Information Disclosure Statement(s) (PTO-1449) Paper No(s) \_\_\_\_\_ 6) ☐ Other:

*Claim Status*

Claims 1-3, 6-10, 12-16 and 18-23 are pending in this office action. Claims 4, 5, 11 and 17 have been cancelled. Claims 1-3, 6-10, 12-16 and 18-23 are rejected in this office action.

*Claim Rejections - 35 USC § 102*

1. The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

The following is a quotation of the appropriate paragraphs of 35 U.S.C. 102 that form the basis for the rejections under this section made in this Office action:

A person shall be entitled to a patent unless –

(e) the invention was described in (1) an application for patent, published under section 122(b), by another filed in the United States before the invention by the applicant for patent or (2) a patent granted on an application for patent by another filed in the United States before the invention by the applicant for patent, except that an international application filed under the treaty defined in section 351(a) shall have the effects for purposes of this subsection of an application filed in the United States only if the international application designated the United States and was published under Article 21(2) of such treaty in the English language.

2. Claims 1-3, 6-10, 12-16 and 18-22 are rejected under 35 U.S.C. 102(e) as being anticipated by US Pat No 6,496,896 issued to Inoue (hereafter Inoue) as best examiner is able to ascertain.

Claims 1, 16 and 22:

Inoue discloses:

■ carousel-forming [Fig 8F, col 19, lines 33-40] data file and directory objects are sent in cycles with predetermined groups of file and directory objects being formed into respective modules at the transmitter, with each module being transmitted as a whole [Fig 8d blocks are grouped together and transmitted as a section, col 18, lines 60-67].

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■ the receiver being arranged to store for retrieval and subsequent playback received file data and directory objects under a predetermined grouping formulation, wherein the file and directory modules are comprised in discrete data portions carried in an elementary stream, with said predetermined grouping formulation for storage being at the module level [Fig 8C, col 18, lines 46-67]

Claim 2:

Inoue discloses said transmitter comprising a connection to a source of data for transmission and data formatting means arranged to assemble into modules for transmission file data and directory objects [col 18, lines 46-67]

Claim 3:

Inoue discloses said receiver comprising means arranged to receive said transmitted modules and to store the file data and directory objects therein according to a predetermined grouping formulation [col 18, lines 46-67]

Claims 6, 12 and 18:

Inoue discloses wherein the data including file and directory modules further comprises a version indicator to identify updates, with said modules further comprising discrete data portions carried in an elementary data stream, with said predetermined grouping formulation for storage being at the elementary level [col 19, lines 19-21]

Claims 7, 13 and 19:

Inoue discloses wherein the file and directory modules are linked to time stamp data, with the transmitter being configured to include such time stamp data and the receiver component

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being arranged to recover such time stamps and utilize them in the reproduction from storage of the carousel [17, lines 50-60].

Claims 8, 14 and 20:

Inoue discloses wherein the reproduction from storage of the carousel is performed at data rates other than that indicated by said time stamps [col 17, lines 60-61].

Claim 9, 15 and 21:

Inoue discloses wherein the reproduction from storage of the carousel is performed at data rates greater than that indicated by said time stamps by reproducing carousel data at a data rate indicated by time-stamp data and selectively interposing additional copies of reproduced carousel file and directory objects with said originally reproduced copies [col 17, lines 60-61]. 24-36].

Claim 10:

Inoue discloses said transmitter comprising a connection to a source of data for transmission and data formatting means arranged to assemble into modules for transmission file data and directory objects [col 17, lines 30-32].

***Claim Rejections - 35 USC § 103***

The following is a quotation of 35 U.S.C. 103(a) which forms the basis for all obviousness rejections set forth in this Office action:

(a) A patent may not be obtained though the invention is not identically disclosed or described as set forth in section 102 of this title, if the differences between the subject matter sought to be patented and the prior art are such that the subject matter as a whole would have been obvious at the time the invention was made to a person having ordinary skill in the art to which said subject matter pertains. Patentability shall not be negatived by the manner in which the invention was made.

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This application currently names joint inventors. In considering patentability of the claims under 35 U.S.C. 103(a), the examiner presumes that the subject matter of the various claims was commonly owned at the time any inventions covered therein were made absent any evidence to the contrary. Applicant is advised of the obligation under 37 CFR 1.56 to point out the inventor and invention dates of each claim that was not commonly owned at the time a later invention was made in order for the examiner to consider the applicability of 35 U.S.C. 103(c) and potential 35 U.S.C. 102(e), (f) or (g) prior art under 35 U.S.C. 103(a).

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue in view of Applicant's admitted prior art.

Claim 23:

Inoue discloses the elements of claim 22 as noted above.

Inoue fails to disclose wherein with respect to said predetermined grouping formulation, the elementary level corresponds to the lowest layer of an object carousel, with the top layer consisting of the file and directory objects and the middle layer consisting of modules.

Applicant as admitted prior art discloses wherein with respect to said predetermined grouping formulation, the elementary level corresponds to the lowest layer of an object carousel, with the top layer consisting of the file and directory objects and the middle layer consisting of modules [page 3, lines 13-16].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Inoue to include wherein with respect to said predetermined grouping formulation, the elementary level corresponds to the lowest layer of an object carousel, with the

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top layer consisting of the file and directory objects and the middle layer consisting of modules per applicant's admitted prior art for the purpose of providing a high speed large bandwidth data transport service. The ordinarily skilled artisan would have been motivated to modify Inoue's invention for the purpose of providing a transport protocol for an audio/video stream which complies with the MPEG-2 industry standard.

Claim 23 is rejected under 35 U.S.C. 103(a) as being unpatentable over Inoue in view of US Pat No 6,052,555 issued to Ferguson, as best examiner is able to ascertain.

Claim 23:

Inoue discloses the elements of claim 22 as noted above.

Inoue fails to disclose wherein with respect to said predetermined grouping formulation, the elementary level corresponds to the lowest layer of an object carousel, with the top layer consisting of the file and directory objects and the middle layer consisting of modules.

Ferguson discloses wherein with respect to said predetermined grouping formulation, the elementary level corresponds to the lowest layer of an object carousel, with the top layer consisting of the file and directory objects and the middle layer consisting of modules [col 3, lines 50-63].

It would have been obvious to one of ordinary skill in the art at the time the invention was made to modify Inoue to include wherein with respect to said predetermined grouping formulation, the elementary level corresponds to the lowest layer of an object carousel, with the top layer consisting of the file and directory objects and the middle layer consisting of modules per applicant's admitted prior art for the purpose of defining layers for levels of abstraction [col

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3, lines 59-63]. The ordinarily skilled artisan would have been motivated to improve Inoue's invention by providing an appropriate high speed large bandwidth data transport service [col 3, lines 45-48].

### ***Response to Arguments***

Applicant's arguments filed 12/20/2004 have been fully considered but are not persuasive.

#### **Applicant Argues:**

Applicant states in the last paragraph on page 3 "Inoue fails to disclose or suggest 'A transmission system ... the receiver being arranged to store for retrieval upon subsequent playback .... under a predetermined grouping formulation .... with said predetermined grouping formulation for storage being at the module level,' language explicitly appearing in the present claim 1.'"

#### **Examiner Responds:**

Examiner is not persuaded. Inoue discloses in Figure 1, item 1 a MD recorder/player. Inoue discloses in column 11, lines 34-42 that "The MD recorder/player 1 can record or reproduce audio data onto or from a mini disc loaded therein. The MD recorder/player 1 further can record still picture data (a picture file) of an album jacket or the like and text data (a text file) of the words of a tune, a liner note and so forth incidental to audio data as main data onto a disc, and reproduce or output data such a picture file, a text file and so forth recorded on the disc in synchronism with a reproduction time of the audio data from the disc." Furthermore, Inoue discloses in column 14, lines 21-28 the following "If a user wants to purchase the thus enjoyed



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tune, then the user will depress the download button 128. If the download button 128 is depressed, then audio data of the selected tune are downloaded and recorded onto a disc by the MD recorder/player 1. Together with audio data of the tune, also data of the words of the tune, profile information of the artist, still picture data of the jacket and so forth can be downloaded.” Inoue clearly teaches that a receiver can store data for retrieval upon subsequent playback.

Consider the claim limitation “predetermined grouping formulation for storage being at the module level.” Inoue discloses in column 18, lines 46-67 and Figures 8C and 8D the means of producing a module in the DSM-CC system (MPEG-part 6). The module is a data unit of a variable length formed such that it includes one or more objects each in the form of a BIOP message shown in Fig 8B and a BIOP header is added to it, and is a buffering unit of received data on the reception side. Further in column 18, lines 56-58, Inoue discloses one module is formed from two or more objects between scenes having no relationship to each other. In col 18, lines 60-64, Inoue discloses “The module is mechanically divided into data units of a fixed length in principle called “block” as seen in Fig 8D. Examiner maintains Inoue clearly discloses “predetermined grouping formulation.”

**Applicant Argues:**

Applicant states in the third paragraph on page 4 “Claim 22 recites the same above-quoted language, except that ‘said predetermined grouping formulation for storage being at the elementary level. Inoue fails to disclose or suggest this feature.’”

**Examiner Responds:**

Examiner is not persuaded. Examiner notes that during examination, the claims must be interpreted as broadly as their terms reasonably allow. This means that the words of the claim

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must be given their plain meaning unless applicant has provided a clear definition in the specification. Examiner will thus “elementary level” its plain meaning. The most appropriate meaning of elementary from Webster’s New World Dictionary is basic or simple. Inoue discloses the following in column 15, lines 43-49, “The DSM-CC (MPEG-part 6) system prescribes, as well known in the art, commands and control methods for retrieving an MPEG coded bit stream stored on a digital storage medium (hereinafter referred to as DSM) or storing a stream onto a DSM. In the present embodiment, the DSM-CC system is adopted as a transmission standard for the digital direct broadcasting system.” Inoue discloses a coded bit stream which is the most basic form of data transmission. This is certainly the most elementary level. Examiner maintains that Inoue reads on “said predetermined grouping formulation for storage being at the elementary level.”

### ***Conclusion***

**THIS ACTION IS MADE FINAL.** Applicant is reminded of the extension of time policy as set forth in 37 CFR 1.136(a).

A shortened statutory period for reply to this final action is set to expire **THREE MONTHS** from the mailing date of this action. In the event a first reply is filed within **TWO MONTHS** of the mailing date of this final action and the advisory action is not mailed until after the end of the **THREE-MONTH** shortened statutory period, then the shortened statutory period will expire on the date the advisory action is mailed, and any extension fee pursuant to 37 CFR 1.136(a) will be calculated from the mailing date of the advisory action. In no event,

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however, will the statutory period for reply expire later than SIX MONTHS from the mailing date of this final action.

Any inquiry concerning this communication or earlier communications from the examiner should be directed to Etienne LeRoux whose telephone number is (571) 272-4022.


The examiner can normally be reached on Monday – Friday from 8:00 AM to 4:30 PM.

If attempts to reach the examiner by telephone are unsuccessful, the examiner's supervisor, Safet Metjahic, can be reached on (571) 272-4023.

Any inquiry of a general nature or relating to the status of this application or proceeding should be directed to the receptionist whose telephone number is (571) 272-2100.

Etienne LeRoux

3/31/2005

  
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